

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JOHN DOE 1, BY AND THROUGH HIS  
FATHER AND NEXT FRIEND JOHN DOE 2,

Plaintiffs,

vs.

Civ. No. 00-1600 WWD/DJS ACE

STEPHEN ROBERT BURROW,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Defendant's Motion in Limine to Exclude Testimony of Ervin Billie [Docket #49]. Ervin Billie and Plaintiff, students at the same school, were on a trip during which they shared a room with Defendant. Apparently Billie and Plaintiff each allege that they were sexually molested by Defendant while the three were sharing the room. Neither boy observed molestation of the other by Defendant. Plaintiff argues that Billie's testimony is admissible under Rule 415 of the Federal Rules of Evidence. Defendant contends that the requirements of Rule 415 are not met and that the testimony should be excluded under Rule 403 because its probative value is outweighed by its prejudice to Defendant. I decline to exclude the testimony of Ervin Billie without having the advantage of considering admission or exclusion of the testimony in the context of the trial.

**WHEREFORE,**

**IT IS ORDERED** that the Defendant's Motion in Limine to Exclude Testimony of Ervin Billie [Docket #49] be, and it is hereby, **DENIED**.

  
UNITED STATES MAGISTRATE JUDGE